

all of its obligations under this checklist item. *See FPSC Staff Checklist Rec.* at 119, 132-40; *TRA Trans.* at 23-24.

BellSouth has a concrete and specific legal obligation in both Florida and Tennessee to provide local loop facilities on an unbundled basis, the terms of which are set forth in BellSouth's SGATs and in interconnection agreements with multiple CLECs. *See Ruscilli/Cox Joint Aff.* ¶¶ 8-9. As in the seven states for which BellSouth has already received section 271 approval, BellSouth provisions high-quality loops in a timely manner in both Florida and Tennessee, and has demonstrated its ability to satisfy all levels of reasonable customer demand. Moreover, BellSouth utilizes the same processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services throughout its region that the Commission examined and found nondiscriminatory in BellSouth's previous 271 applications. BellSouth has also complied fully with its obligations under the *Line Sharing Order*,⁵⁸ the *Line Sharing Reconsideration Order*,⁵⁹ and the *UNE Remand Order*.

BellSouth offers CLECs local loop transmission from the central office to the customer's premises, unbundled from local switching and other services. As of July 31, 2002, BellSouth had provisioned 166,168 loops in Florida and 50,886 in Tennessee. *See Milner Aff.* ¶ 98. Overall, throughout BellSouth's region, BellSouth has provisioned more than 400,000 loops. *See id.*

⁵⁸ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*"), vacated and remanded, *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

⁵⁹ Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 2101 (2001) ("*Line Sharing Reconsideration Order*").

1. Stand-Alone Loops

In both Florida and Tennessee, BellSouth offers a variety of loop types to CLECs, including SL1 voice grade loops, SL2 voice grade loops, 2-wire ISDN digital grade loops, 56 or 64 kbps digital grade loops, 4-wire DS1 loops, and various high-capacity and xDSL-capable loops. *See Milner Aff.* ¶ 96.⁶⁰ In addition, BellSouth provides CLECs with unbundled loops in those instances where the customer was previously served by IDLC. *See id.* ¶ 99. CLECs can access unbundled loops at any technically feasible point, and BellSouth provides access to all the features, functions, and capabilities of the loop. *See id.* ¶ 92; *New York Order* ¶¶ 273, 275. CLECs seeking additional loop types can take advantage of BellSouth's BFR process. *See Milner Aff.* ¶ 97; *Ruscilli/Cox Joint Aff.* ¶¶ 12-13.

As demonstrated below, comprehensive performance data demonstrate that BellSouth's processes and procedures for the ordering, provisioning, and maintenance of unbundled loop facilities offer CLECs in both Florida and Tennessee a meaningful opportunity to compete in the local service market. *See GA/LA Order* ¶¶ 224, 228 (analyzing BellSouth's compliance with Checklist Item 4 through performance measurements covering order processing timeliness, installation timeliness, missed installation appointments, installation quality, and the timeliness and quality of maintenance and repair functions).

BellSouth's SQM plans in Florida and Tennessee are disaggregated by loop type. As demonstrated in the affidavit of Alphonso Varner and its exhibits, and as further demonstrated below, those plans provide highly disaggregated data for different loop types – including data for analog loops (designed and nondesigned, and with and without LNP), various kinds of digital

⁶⁰ Both SL1 and SL2 are voice grade loops, but SL2 loops are designed. SL2 loops come with test points for mechanized trouble isolation (SMAS points), and the CLEC gets a Detailed Layout Record ("DLR") depicting the composition of the loop (what cable and pair, gauge, length to crossbox, etc.).

loops, xDSL loops, and line-shared loops. BellSouth's performance in the pre-ordering, ordering, and provisioning of unbundled loops, as captured by these comprehensive measures, demonstrates that CLECs have nondiscriminatory access to local loop transmission. *See generally Varner Aff.* Exhs. PM-2 ¶¶ 106-161 (Florida), PM-3 ¶¶ 104-159 (Tennessee).

a. Hot Cuts

BellSouth provides nondiscriminatory access to hot-cut loops in Florida and Tennessee in accordance with the Commission's standards, utilizing the exact same hot-cut processes and procedures that the Commission approved in its *Five State* and *GA/LA Orders*. *See GA/LA Order* ¶ 220; *Five State Order* ¶ 234. Specifically, BellSouth performs coordinated conversions in a timely manner, with minimal service disruption, and with few troubles following installation. *See GA/LA Order* ¶ 220; *Five State Order* ¶ 234.

BellSouth has developed three different hot-cut processes, allowing CLECs to select the particular method that best fits their business plan and their customers' needs. Two of these processes (the time-specific cutover and the non-time-specific cutover) involve order coordination between BellSouth and the requesting CLEC, while the third process (the date-specific cutover) does not involve any such coordination. *See Milner Aff.* ¶¶ 124-125. In the third method, the CLEC simply specifies a date for the desired conversion to occur. *See id.* ¶ 126.

The time-specific and non-time-specific processes are largely analogous: the difference is the time for determining the cutover. When a CLEC places an order for a time-specific conversion, the CLEC simultaneously selects the date and time for the desired conversion. *See id.* ¶ 124. For a non-time-specific conversion, the CLEC selects only the cutover *date* at the time it places the original order. *See id.* ¶ 125. Then, within 24 to 48 hours of that cutover date,

BellSouth and the CLEC jointly select a mutually acceptable time for the coordinated conversion to occur. *Id.*

The Commission has noted that “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *Texas Order* ¶ 256. As in the seven states for which BellSouth has already received 271 approval, BellSouth’s performance data for Florida and Tennessee demonstrate that it is doing exceptionally well in performing this “critically important” task.

In Florida, between May and July 2002, BellSouth met or exceeded every benchmark for each of the hot-cut submetrics. *See Varner Aff.* Exh. PM-2 ¶ 156. BellSouth provisioned 99.9% of scheduled conversions on time, and in fewer than 15 minutes, during this three-month time period. *See id.* Exh. PM-2 ¶¶ 5, 157 (B.2.12). BellSouth also performed these cutovers with less than 1% of service outages each month. *See id.* Exh. PM-2 Attachs. 1-3 (B.2.12.2, B.2.16.2). This is far superior to the applicable standard. *See KS/OK Order* ¶ 204; *New York Order* ¶ 302. In addition, CLECs reported trouble on only 1.2% of converted circuits (B.2.17), which is well-within the benchmark established by BellSouth’s SQM and in line with this Commission’s standards. *See Varner Aff.* Exh. PM-2 ¶ 161.

BellSouth’s Tennessee performance is also excellent, meeting or exceeding every benchmark for each of the hot-cut submetrics. *See id.* Exh. PM-3 ¶ 151. From May through July 2002, BellSouth completed 809 of the 809 scheduled conversions on time between May and July 2002. *See id.* Exh. PM-3 ¶ 152 (B.2.12). BellSouth performed these cutovers with less than 1% of service outages each month, again exceeding the applicable standard. *See id.* Exh. PM-3 Attachs. 1-3 (B.2.12.2, B.2.16.2). During that time period, CLECs reported trouble on only 31

of 509 provisioned circuits, meeting the benchmarks in two out of three months. *See Varner Aff.* Exhs. PM-3 ¶ 156.⁶¹

There can be no serious dispute that BellSouth satisfies this Commission's standards for hot cuts in Florida and Tennessee. *See GA/LA Order* ¶¶ 220-221 (BellSouth demonstrates compliance by providing hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum number of troubles following installation); *Five State Order* ¶ 234.

b. Stand-Alone Loop Performance

In reviewing a BOC's performance for stand-alone loop provisioning, the Commission focuses upon the following categories: (i) installation timeliness; (ii) installation quality; and (iii) the quality of maintenance and repair functions. *See GA/LA Order* ¶ 224. In both Florida and Tennessee, across all loop types, BellSouth's performance has been excellent.

BellSouth provisions high-quality, unbundled voice-grade loops in a timely manner, affording CLECs serving end users in Florida and Tennessee a meaningful opportunity to compete. In Tennessee, between May and July 2002, reported performance data for analog loops demonstrate that BellSouth has consistently met or exceeded the parity standard for both order completion intervals (or "OCIs") (B.2.1.8, B.2.1.9) and the percentage of missed installation appointments (B.2.18.8, B.2.18.9). *See Varner Aff.* Exh. PM-3 ¶¶ 134, 137. In Florida, during that same time period, BellSouth met or exceeded the retail analogues for 11 of the 16 OCI

⁶¹ In July 2002, an inadvertent central office error disconnected 9 lines after they had been accepted by the CLEC. Once identified, these lines were immediately put back in service. *See Varner Aff.* Exh. PM-3 ¶ 156.

submetrics with CLEC activity,⁶² and all 16 submetrics with CLEC activity for percentage of missed installation appointments. *See id.* Exh. PM-2 ¶¶ 139, 142.

The quality of BellSouth's loop provisioning, as well as the timeliness and quality of its maintenance and repair services, has been solid in both Florida and Tennessee. *See id.* Exhs. PM-2 ¶¶ 143-148, PM-3 ¶¶ 138-143. In the few instances in which BellSouth missed an installation quality submetric, the small volume of trouble reports precluded a meaningful comparison to the retail analogue. *See id.* Exh. PM-2 ¶ 143. For those I-30 (troubles within 30 days of installation) submetrics for which there are sufficient volumes to offer a statistically significant portrait of BellSouth's performance, BellSouth has consistently met the parity standard. *See id.* Exhs. PM-2 ¶ 143, PM-3 ¶ 138 (B.2.19.8.1.1) (2-wire analog loop design/<10 circuits/dispatch).

For designed two-wire analog loops, between May and July 2002, in both Florida and Tennessee, BellSouth met a greater percentage of maintenance and repair appointments for CLEC customers than it did for its own retail customers (B.3.1.8). *See id.* Exhs. PM-2 ¶ 146 (6 of the 6 submetrics in Florida), PM-3 ¶ 142 (5 of the 6 submetrics in Tennessee). For non-designed two-wire analog loops, BellSouth met all 6 submetrics in Tennessee. *See id.* Exh. PM-3 ¶ 143 (B.3.1.9).⁶³ And, in both states, BellSouth completed maintenance and repair work for

⁶² CLEC orders in these submetrics are scheduled based on the standard ordering guide, which carries a minimum four-day interval for these orders. *See Varner Aff.* Exh. PM-2 ¶ 139. The retail analogue for the majority of CLEC orders in these measurements, however, is residence and business (POTS) type orders, which are scheduled based on the due date calculator, and thus may be scheduled and completed in less than one day. *See id.* Thus, these misses do not raise any systemic issues.

⁶³ In Florida, BellSouth met the retail analogue requirement for 3 of the 6 submetrics that had CLEC activity in May through July 2002. *See Varner Aff.* Exh. PM-2 ¶ 147. For the May "Dispatched" measurement, 60 of the 104 total missed appointments were due to wet or damaged feeder cable, while another 16 were missed by less than one hour. For the May "Non-Dispatched" measurement, two of the six missed appointments were missed by less than 30

both design and non-design analog loops in substantially less time for CLEC loops than for BellSouth's own retail customers (B.3.3.8, B.3.3.9). *See id.* Exhs. PM-2 ¶ 149, PM-3 ¶ 144. Finally, with respect to both design and non-design analog loops, BellSouth provides high-quality maintenance and repair services, such that CLEC customers generally suffered a lower percentage of repeat troubles than did BellSouth retail customers. *See id.* (B.3.4.8, B.3.4.9).

c. High-Speed Digital Loops

BellSouth has provisioned high-quality DS1 loops in a timely manner to CLECs in both Florida and Tennessee, and, though rarely ordered, BellSouth continues to offer unbundled loops of greater transmission capacity. In Florida, BellSouth met 7 of the 10 submetrics with CLEC activity between May and July 2002, missing only 29 of the more than 1,200 scheduled appointments for provisioning digital loops. *See Varner Aff.* Exh. PM-2 ¶ 153 (B.2.18). In Tennessee, BellSouth met or exceeded the retail analogues for 4 of the 6 submetrics with CLEC activity in May through July 2002, missing only 46 of the 603 scheduled appointments for provisioning digital loops within that same time period. *See id.* ¶ 148. Moreover, as was the case in both states, the majority of these missed appointments were caused by facility issues that required construction to add facilities. *See id.* Exhs. PM-2 ¶ 153, PM-6 ¶ 148.

The average OCI for DS1 loops has also been substantially shorter for CLECs than it has been for BellSouth retail customers. *See id.* Exhs. PM-2 ¶ 151, PM-3 ¶ 146 (B.2.1.18, B.2.1.19). In Tennessee, BellSouth met or exceeded the retail analogues for 6 of the 6 submetrics with CLEC activity in the months of May through July 2002 for both the digital loops < & => DS1.

minutes each, while the other four missed appointments were due to improper order close-out procedures associated with a multi-trouble order for the same customer. Maintenance technicians have been retrained on appropriate order close-out procedures. There were 18 total missed appointments for the Non-Dispatched measurement in July. Two of the 18 were closed as Test OK/Found OK, and 15 of the remaining 16 were the result of two multiple troubles – one involving five circuits and the other involving 10 circuits. *See id.*

See id. Exh. PM-3 ¶ 144. In Florida, BellSouth met or exceeded the retail analogues for 5 of the 9 submetrics with CLEC activity in the months of May through July 2002 for both the digital loops $< \& \Rightarrow$ DS1. *See id.* Exh. PM-2 ¶ 151. The misses, however, were the result mainly of differences between the product mix of CLEC orders and the retail analogue. Specifically, more than one-half of CLEC orders in this measurement were Unbundled Digital Channel (“UDC”) circuits, which are designed circuits that require approximately 10 days completion, compared to the retail analogue, which is heavily weighted toward ADSL circuits requiring approximately 4 days completion. *See id.*⁶⁴

2. Access to Subloop Elements

In addition to the unbundled loops themselves, BellSouth offers CLECs the same nondiscriminatory access to subloop elements in Florida and Tennessee that it offers in its other states. *See Milner Aff.* ¶ 107. The subloop UNE has been defined as a portion of the local loop that can be accessed at accessible points on the loop. *See id.* This includes any technically feasible point near the customer’s premises (such as the pole or pedestal, the network interface device, or minimum point of entry to the customer’s premises), the feeder distribution interface,

⁶⁴ With respect to the number of provisioning troubles within 30 days, BellSouth in Florida met or exceeded the retail analogues for 3 of the 9 submetrics with CLEC activity in May through July 2002. *See Varner Aff.* Exh. PM-2 ¶ 154. Three of the six misses were in the “ $<$ DS1 / $<$ 10 Circuits / Dispatch” measurement. Two misses were associated with \geq DS1 / $<$ 10 Circuits / Dispatch” orders. *See id.* The majority of the missed submetrics for these measures were caused by defective plant facilities, CO wiring problems, or Test OK/Found OK reports. *See id.* Similarly, BellSouth in Tennessee met or exceeded the retail analogues for 2 of the 6 submetrics with CLEC activity in May through July 2002. *See id.* Exh. PM-3 ¶ 149. There were 2 missed submetrics in May and June for digital loops $<$ DS1 and 2 missed submetrics in June and July for digital loops \Rightarrow DS1. *See id.* The $<$ DS1 loops showed greater than 20% of the reports being closed as “no trouble found” with the \Rightarrow DS1 having approximately 40% of the reports closed as “no trouble found.” *See id.* The remainder of the reports were spread equally between the outside facilities and the equipment within the central office. *See id.* In both states, however, no trends or systemic installation issues were identified for these items. *See id.* Exh. PM-2 ¶ 154, PM-3 ¶ 149.

the Main Distributing Frame, remote terminals, and various other terminals. *See id.* BellSouth offers the following subloop elements: loop concentration/multiplexing; loop feeder; loop distribution; intrabuilding network cable; and network terminating wire. *See id.* Moreover, CLECs can request additional subloop elements via the BFR process. *See id.* As of July 31, 2002, BellSouth has provided CLECs 587 unbundled loop distribution subloop elements region-wide, of which 566 are in Florida. *See id.* ¶ 108. CLECs in Tennessee have not purchased the unbundled loop distribution subloop elements. *See id.*

3. Access to xDSL-Capable Loops

As the Commission previously found, “BellSouth demonstrates that it provides xDSL-capable loops in accordance with the requirements of checklist item 4.” *GA/LA Order* ¶ 228. *See also Five State Order* ¶ 236. BellSouth utilizes the same nondiscriminatory processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services in Florida and Tennessee as it does in the other states in BellSouth’s region, offering CLECs a meaningful opportunity to compete in the advanced services market. As BellSouth explained in its previous section 271 applications, because the various flavors of xDSL have different technical prerequisites and disparate tolerance for disturbing devices, CLECs requested that BellSouth create xDSL loop offerings with distinct parameters. In response to these requests, BellSouth developed a variety of unbundled loop types for CLECs to choose from. Because BellSouth signed interconnection agreements obligating it to continue provisioning these different loop types, however, multiple product offerings have been and remain available over time. The historical evolution of BellSouth’s specific xDSL loop offerings – which currently include the ADSL-capable loop; HDSL-capable loop; ISDN loop; Unbundled Digital

Channel (“UDC”); Unbundled Copper Loop (“UCL”), Short and Long; and UCL-Nondesign (“UCL-ND”) – is recounted in Exhibit WKM-5 to the affidavit of W. Keith Milner.⁶⁵

BellSouth also performs loop conditioning as requested, regardless of whether BellSouth offers advanced services to the end-user customer on that loop. CLECs may select the precise conditioning (*i.e.*, loop modification) that they desire on their loop and will pay only for the level of conditioning selected. *See Milner Aff.* ¶ 104 & Exh. WKM-5 ¶ 24. Through BellSouth’s Unbundled Loop Modification (“ULM”) process, a CLEC can request that BellSouth modify any existing loop to be compatible with the CLEC’s particular hardware requirements. *See id.* Exh. WKM-5 ¶ 24.

Under the direction of its in-region state commissions, BellSouth has also developed comprehensive, disaggregated performance metrics that capture its performance in the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services. In both Florida and Tennessee, BellSouth’s performance has been nondiscriminatory across each of the categories upon which this Commission has focused its attention: (i) order processing timeliness; (ii) installation timeliness; (iii) missed installation appointments; (iv) installation quality; and (v) quality and timeliness of maintenance and repair. *See GA/LA Order* ¶ 228. BellSouth’s comprehensive performance data clearly support the conclusion that BellSouth provides nondiscriminatory access to xDSL-capable loops and related services in compliance with Checklist Item 4.

⁶⁵ As of July 31, 2002, BellSouth has provisioned the following volumes of xDSL-capable loops in Florida: 5,170 2-wire ADSL loops; 141 2-wire HDSL loops; 263 UCL (Long and Short) loops; and 5,301 UDC loops. In Tennessee, BellSouth had provisioned the following volumes of xDSL-capable loops: 1,698 2-wire ADSL loops; 46 2-wire HDSL loops; 425 UCL (Long and Short) loops; and 1,099 UDC loops. *See Milner Aff.* ¶ 96.

In both Florida and Tennessee, across all five of the relevant categories and across each of its xDSL-related metrics, BellSouth's performance has been excellent. BellSouth returns LMU to CLECs in substantially the same time and manner as it is available to BellSouth's personnel. *See Stacy Aff.* ¶ 365. In Florida, BellSouth returned timely responses for 91% of the 12,087 CLEC requests for electronic loop make-up information during the period May through July 2002. *See Varner Aff.* Exh. PM-2 ¶ 82 (F.2.2). In Tennessee, BellSouth returned timely responses for 94% of the 2,392 CLEC requests. *See id.* Exh. PM-3 ¶ 79. A root-cause analysis identified a DOM system queuing problem that resulted in longer responses for both CLECs and BellSouth alike. After BellSouth corrected the problem on June 27, it met the relevant benchmark – 95% in 1 minute – in July 2002 in both Florida and Tennessee. *See id.* Exhs. PM-2 ¶ 82 & Attachs. 1-3 (99.1% in Florida), PM-3 ¶ 79 & Attachs. 1-3 (99.6% in Tennessee).

BellSouth additionally installs high-quality xDSL-capable loops in a timely manner in Florida and Tennessee. BellSouth provisions xDSL-capable loops well within the seven-day benchmark established in its state-approved performance plans, *see id.* Exhs. PM-2 ¶ 111, PM-3 ¶ 108 (B.2.2), and BellSouth has met or exceeded the applicable parity standard for missed installation appointments in May through July 2002, *id.* Exhs. PM-2 ¶ 115, PM-3 ¶ 112 (B.2.18.5). Once provisioned, CLEC-ordered xDSL-capable loops experience few technical problems. Between May and July 2002, BellSouth met or exceeded the parity standard for trouble reports within 30 days of installation for all submetrics in Tennessee and Florida. *Id.* Exhs. PM-2 ¶ 117, PM-3 ¶ 113 (B.2.19.5).

When CLECs did experience trouble on xDSL-capable loops, BellSouth handled the troubles in substantially less time than it handled the troubles for its retail units (B.3.3.5). *See id.* Exhs. PM-2 ¶ 124, PM-3 ¶ 120. BellSouth consistently made a greater percentage of repair

appointments for CLECs than for its own retail customers, *see id.* Exhs. PM-2 ¶ 120, PM-3 ¶ 116 (B.3.1.5), and provided superior quality repair service, as CLECs suffered fewer repeat troubles, *see id.* Exhs. PM-2 ¶ 125, PM-3 ¶ 121 (B.3.4.5).

4. ISDN-BRI Loop Provisioning

BellSouth's performance in provisioning ISDN-BRI loops has also been excellent across each of the categories to which this Commission has directed its attention. *See GA/LA Order* ¶ 230 ("BellSouth provides ISDN loops to competitors in Georgia and Louisiana in accordance with the requirements of checklist item 4."); *Five State Order* ¶ 238. In both Florida and Tennessee, BellSouth has met or exceeded the parity standard for ISDN-BRI loops for average OCI, *see Varner Aff.* Exhs. PM-2 ¶ 129, PM-3 ¶ 124 (B.2.1.6.3), and for meeting installation appointments during each month from May through July 2002, *see id.* Exhs. PM-2 ¶ 131, PM-3 ¶ 126.

With respect to the customer trouble report rate, in Tennessee, BellSouth met the retail analogue comparison for 6 of the 6 submetrics during the May through July 2002 time period. *See id.* Exh. PM-3 ¶ 129. Although BellSouth in Florida missed the retail analogue comparison for 3 of the 6 submetrics during the May through July 2002 time period, a large proportion of the reported troubles were due to defective cable pairs or circuit cards that had to be reseated. *See id.* Exh. PM-2 ¶ 134. Moreover, CLECs in Florida reported 157 troubles for the 6,643 lines in service for this submetric in May 2002, 168 troubles for the 6,570 lines in service in June 2002, and 193 troubles for the 6,557 lines in service in July 2002. *See id.* Thus, because both CLECs and BellSouth retail averaged over 97% trouble free service (including both dispatched and non-dispatched orders) in May through July 2002, CLECs were not denied a meaningful opportunity to compete. *See id.*

When CLECs do experience troubles, BellSouth has provided timely and high-quality maintenance and repair services. In both Florida and Tennessee, BellSouth routinely meets or exceeds the parity standard for missed repair appointments, *see id.* Exhs. PM-2 ¶ 133, PM-3 ¶ 128 (B.3.1.6), average maintenance duration, *see id.* Exhs. PM-2 ¶ 135, PM-3 ¶ 130 (B.3.3.6), and percent repeat reports within 30 days, *see id.* Exhs. PM-2 ¶ 136, PM-3 ¶ 131 (B.3.4.6).

5. Line Sharing

BellSouth has implemented line sharing in both Florida and Tennessee in full compliance with the terms of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*, allowing CLECs to offer high-speed data service to BellSouth voice customers. *See Milner Aff.* ¶¶ 111, 120 & Exh. WKM-6. Specifically, line sharing is available to a single requesting carrier on loops that carry BellSouth's POTS so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice-band transmissions. *See id.* Exh. WKM-6 ¶ 5. BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with Commission rules and that will not significantly degrade analog voice service. *See id.* At the request of the data CLECs, BellSouth voluntarily provides line splitters in 96-line unit, 24-line unit, and 8-line unit complements in Florida, and in 96-line unit, 24-line unit, and 1-line unit complements in Tennessee. *See id.* ¶ 17. BellSouth utilizes the exact same processes and procedures for the pre-ordering, ordering, and provisioning of line-shared loops in Florida and Tennessee as it follows in each of the seven states for which BellSouth has received interLATA authority. *See id.* ¶ 19. Accordingly, the Commission's conclusion that "BellSouth offers line sharing in Georgia and Louisiana . . . in accordance with the requirements of the *Line Sharing Order* and the *Line Sharing Reconsideration Order*," *GA/LA Order* ¶ 238; *Five State Order* ¶ 248, applies with equal force here.

BellSouth developed its line-sharing product in a collaborative effort with CLECs and is continuing to work cooperatively with CLECs on an ongoing basis to resolve issues as they arise. *See Milner Aff.* ¶ 115 & Exh. WKM-6 ¶¶ 6-15. BellSouth invited all interested CLECs to collaborative meetings beginning in January 2000, and 12 CLECs participated in these meetings. *See id.* Exh. WKM-6 ¶ 6. The participants agreed to form several working collaborative teams to develop processes and procedures for central-office-based line sharing, which were then implemented, tested, and improved. *See id.* As a result of these efforts, BellSouth was able to implement commercial line sharing by this Commission's June 6, 2000 deadline. *See id.* ¶¶ 6-13. As of July 2002, BellSouth had provisioned 2,850 line-sharing arrangements in Florida, 931 line-sharing arrangements in Tennessee, and 9,770 such arrangements region-wide. *See Milner Aff.* ¶ 112.

The pre-ordering, ordering, provisioning, and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Id.* Exh. WKM-6 ¶¶ 20-27. CLECs obtain access to LMU in the exact same manner whether they are seeking to obtain an xDSL-capable loop or the high-frequency portion of the loop. *Id.* ¶¶ 20-21. As BellSouth has demonstrated, it offers access to the exact same LMU available to and used by its retail personnel, and in the same time and manner. *See Stacy Aff.* ¶¶ 363-372. *See also Five State Order* ¶ 141; *GA/LA Order* ¶ 112.

BellSouth provisions line sharing in a timely, accurate, and nondiscriminatory manner. *See Massachusetts Order* ¶ 165 (“[A] successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates and repeat trouble report rates.”) (internal quotation marks omitted).

BellSouth routinely meets substantially the same percentage of CLEC and retail installation appointments for line shared loops. *See Varner Aff.* Exhs. PM-2 ¶ 116, PM-3 ¶ 112 (B.2.18.7). In Tennessee, BellSouth met the parity benchmark of every month between May and July 2002. *See id.* Exh. PM-3 ¶ 112. In Florida, BellSouth met the benchmark for 5 of the 6 submetrics, meeting 97.4% of installation appointments. *See id.* Exh. PM-2 ¶ 116.

Although BellSouth missed the parity benchmark in both Florida and Tennessee for many of the OCI submetrics with CLEC activity for this measure during May through July 2002, a detailed analysis has indicated that the major difference is in how BellSouth was handling the scheduling of the CLEC orders. *See id.* Exhs. PM-2 ¶ 113, PM-3 ¶ 110. To address this issue, BellSouth changed how it schedules the ADSL portion of the line sharing order. *See id.* Initial indications show that for the first two weeks after this change was implemented, the CLEC results for dispatched orders were reduced by more than three days and for non-dispatched orders by approximately 1.5 days from the actual July results. *See id.* This would have reduced the dispatched result to approximately 3.5 days and to less than 2.5 days for the non-dispatched results if applied to the full July data month. *See id.* Exhs. PM-2 ¶ 113, PM-3 ¶ 110.

With respect to provisioning troubles within 30 days, although BellSouth has not met the benchmarks in Florida, analysis of the trouble reports revealed a large number that were closed as Test OK/Found OK. *See id.* Exh. PM-2 ¶ 118. In Tennessee, although BellSouth met or exceeded the retail analogue for 3 of the 6 submetrics with CLEC activity during the months of May through July 2002, there were only 14 troubles out of 149 orders completed for the entire three-month period. There were no systemic issues identified for any of the 14 troubles during the period. *See id.* Exh. PM-3 ¶ 114.

BellSouth has met substantially the same percentage of repair appointments for CLECs as for its retail customers. *See id.* Exhs. PM-2 ¶ 121, PM-3 ¶ 117 (B.3.1.7). BellSouth additionally met or exceeded the parity standard for repeat troubles for all six relevant submetrics in both Florida and Tennessee. *See id.* Exhs. PM-2 ¶ 126, PM-3 ¶ 121 (B.3.4.7).

6. Line Splitting

As in its other states, BellSouth facilitates CLEC efforts to engage in line splitting in Florida and Tennessee in full compliance with the Commission's instructions. *Milner Aff.* Exh. WKM-6 ¶¶ 34-46; *see also GA/LA Order* ¶ 241 ("BellSouth complies with its line-splitting obligations and provides access to network elements necessary for competing carriers to provide line splitting."); *Five State Order* ¶ 241. Specifically, BellSouth facilitates line splitting by cross-connecting an unbundled loop to a CLEC's collocation space. *Milner Aff.* ¶ 120 & Exh. WKM-6 ¶ 34. Once the CLEC has separated the voice from the data service, and sent the latter onto its packet-switched network, BellSouth will cross-connect the voice signal back to the BellSouth circuit switch. *Id.* Exh. WKM-6 ¶ 42. In other words, BellSouth offers the same arrangement to CLECs as the Commission described in the *Texas Order* and the *Line Sharing Reconsideration Order*, and approved in its *GA/LA Order*. *See GA/LA Order* ¶ 241.

E. Checklist Item 5: Unbundled Local Transport

In compliance with the Act, BellSouth provides "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C. § 271(c)(2)(B)(v). Interoffice transmission facilities include both dedicated transport and shared transport. *Second Louisiana Order* ¶ 201. Dedicated transport is defined as "incumbent LEC transmission facilities . . . dedicated to a particular customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting

telecommunications carriers.” 47 C.F.R. § 51.319(d)(1)(i). Shared transport is defined as “transmission facilities shared by more than one carrier, including the incumbent LEC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the incumbent LEC network.” *Id.* § 51.319(d)(1)(iii).

In the *GA/LA Order*, this Commission concluded that “BellSouth complies with the requirements of this checklist item.” *GA/LA Order* ¶ 245. The Commission again found BellSouth to be in compliance with this checklist item in the recent Five State proceeding. *See Five State Order* ¶ 252. Because BellSouth’s terms and conditions for local transport in Florida and Tennessee are substantively the same as those at issue in these other seven states, BellSouth also satisfies this checklist item in these states as well. *See Milner Aff.* ¶ 141; *Ruscilli/Cox Joint Aff.* ¶ 102; *FPSC Staff Checklist Rec.* at 141, 147; *TRA Trans.* at 25.

BellSouth’s terms and conditions in Florida and Tennessee comply with all applicable rules. Dedicated and shared transport are available between end offices, between tandems, and between tandems and end offices, and procedures are in place for the ordering, provisioning, and maintenance of both dedicated and shared transport. *Milner Aff.* ¶¶ 142-146. BellSouth offers dedicated transport at high levels of capacity, including DS3 and OCn levels. *Id.* ¶ 144. For dedicated transport, to the extent technically feasible, BellSouth provides requesting carriers access to digital cross-connect system functionality in the same manner that BellSouth provides it to interexchange carriers. *Id.* CLECs purchasing shared transport may use the same routing tables resident within BellSouth’s switches. *Id.* ¶ 146.

Available data on local transport show that CLECs have nondiscriminatory access to dedicated and shared transport elements. BellSouth timely provisioned and maintained unbundled transport from May through July 2002, meeting all but one submetric where there was

activity (the one miss was for a maintenance and repair submetric in Florida, where BellSouth met 29 out of 30 maintenance and repair submetrics during this period). *See Varner Aff.* Exhs. PM-2 ¶¶ 162-165 (Florida), PM-3 ¶¶ 157-159 (Tennessee).

F. Checklist Item 6: Unbundled Local Switching

Checklist Item 6 obligates a BOC to provide “[l]ocal switching unbundled from transport, local loop transmission, or other services.” 47 U.S.C. § 271(c)(2)(B)(vi). In accordance with this Commission’s requirements, BellSouth provides (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical features; (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching; (7) usage information for billing exchange access; and (8) usage information for billing for reciprocal compensation. *See Milner Aff.* ¶¶ 150-176; *Ruscilli/Cox Joint Aff.* ¶¶ 35-46.

In both the *GA/LA Order* and the *Five State Order*, this Commission found that BellSouth complied with this checklist item. Because BellSouth’s terms and conditions for unbundled local switching in Florida and Tennessee are substantively the same as those in these other states, BellSouth also satisfies this checklist item in Florida and Tennessee. *See Ruscilli/Cox Joint Aff.* ¶ 46. *See also FPSC Staff Checklist Rec.* at 148, 155-57; *TRA Trans.* at 27.

Facilities and Vertical Features. BellSouth makes available to CLECs nondiscriminatory access to line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. *See Milner Aff.* ¶ 152. Local circuit switching also provides access to additional capabilities such as common and dedicated transport, out-of-band signaling, 911, operator services, directory services, repair service, as well as Advanced Intelligent Network (“AIN”) capabilities. *See id.*

BellSouth offers CLECs in Florida and Tennessee all vertical features that are loaded in the switch. *Id.* ¶ 154. BellSouth will provide switch features that are loaded but not activated, and features that are not currently loaded in the switch, pursuant to the BFR process, where technically feasible. *Id.*; see *Second Louisiana Order* ¶ 220 (BOC may require CLECs to request vertical switching features through a formal process that would give the BOC an opportunity to determine feasibility and to develop procedures for offering those features).

Customized Routing. Customized routing allows calls from a CLEC's customer served by a BellSouth switch to reach operator services or directory assistance platforms maintained by BellSouth (branded or unbranded), the CLEC, or a third party. See *Milner Aff.* ¶ 162. BellSouth provides nondiscriminatory access to technically feasible customized routing functions via two methods: AIN and Line Class Codes ("LCCs"). See *id.* ¶¶ 163-176. In the *GA/LA Order*, this Commission has held that these two methods of customized routing satisfied this checklist obligation. See *GA/LA Order* ¶ 249 ("BellSouth demonstrates that it provides . . . customized routing"); accord *Texas Order* ¶¶ 339-341.

G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services

In both the *GA/LA Order* and the *Five State Order*, the Commission ruled that BellSouth satisfied the requirements of Checklist Item 7 by providing nondiscriminatory access to emergency, directory assistance, and operator call completion services to other carriers. See *Five State Order* ¶ 270; *GA/LA Order* ¶¶ 250, 253. Because BellSouth currently uses the same nondiscriminatory processes and methods in Florida and Tennessee as it does in these other states, BellSouth also satisfies this requirement in Florida and Tennessee. See generally *Milner Aff.* ¶¶ 177-208; *id.* Exhs. WKM-9, WKM-10. See also *FPSC Staff Checklist Rec.* at 158, 165-69; *TRA Trans.* at 29.

1. 911 and E911 Services

In Florida and Tennessee, BellSouth provides CLEC customers access to 911 and E911 services at a level of quality and performance that is at least equal to what BellSouth provides itself. *See Milner Aff.* ¶¶ 178-181; *see generally id.* Exh. WKM-9. BellSouth has had in place methods and procedures since 1996 that allow other carriers, including independent LECs, nondiscriminatory access to BellSouth's E911 and 911 updating capabilities. *Milner Aff.* ¶ 178. The Commission has repeatedly found that BellSouth satisfies the 911 and E911 components of Checklist Item 7. *See Five State Order* ¶ 270; *GA/LA Order* ¶¶ 250, 253; *see also Second Louisiana Order* ¶ 236; *South Carolina Order* ¶ 230.

2. Directory Assistance/Operator Services

BellSouth offers CLECs in Florida and Tennessee access to its OS/DA offerings on a nondiscriminatory basis. *Milner Aff.* ¶¶ 182-208 & Exh. WKM-10. As described in the *GA/LA Order*, BellSouth offers CLECs an array of options for providing OS/DA services. A CLEC can elect (1) to provide OS/DA services to its own customers directly; (2) to route its customers' OS/DA calls to a third-party provider; or (3) to have BellSouth provide these services on its behalf. *See GA/LA Order* ¶ 253 n.975; *Milner Aff.* ¶ 183. *See generally Milner Aff.* Exh. WKM-10.

In addition, BellSouth provides nondiscriminatory access to carrier-specific branding, or removal of the BellSouth brand alone, for OS/DA calls. *See Milner Aff.* ¶¶ 198-208; *GA/LA Order* ¶ 253 (“[C]ompeting carriers that wish to resell BellSouth's [OS/DA] have a choice of whether the services will be branded, unbranded, or custom branded with the competing carrier's own brand.”). CLECs may choose branding via customized routing using either the AIN or LCCs. *See Milner Aff.* ¶¶ 204-205. Alternatively, CLECs may request branding through the Originating Line Number Screening (“OLNS”) option that does not require customized routing.

Id. ¶ 206. The Commission has properly ruled that these options satisfy BellSouth's branding obligations. *See GA/LA Order* ¶ 253.

BellSouth does not disaggregate DA and OS performance data between BellSouth end-user customers and CLEC end-user customers. Such disaggregation is unnecessary to establish nondiscrimination because BellSouth's provision of DA and OS to CLECs creates parity by design. *See Milner Aff.* ¶¶ 196-197; *GA/LA Order* ¶ 253 ("BellSouth's services are designed in such a manner that calls from customers of competing carriers are processed in an identical manner to BellSouth retail customers resulting in identical performance.").

H. Checklist Item 8: White Pages Directory Listings for CLEC Customers

In the *GA/LA Order* and the *Five State Order*, the Commission determined that BellSouth's procedures for providing White Pages listings satisfied the requirements of Checklist Item 8. *See GA/LA Order* ¶¶ 257-258; *Five State Order* ¶ 255; *accord Second Louisiana Order* ¶¶ 252-258. Because BellSouth uses the same systems and procedures for generating nondiscriminatory White Pages listings in Florida and Tennessee as it did in these other states at the time of those successful applications, BellSouth also satisfies this checklist item in Florida and Tennessee. *Milner Aff.* ¶ 209. *See also FPSC Staff Checklist Rec.* at 170, 173-75; *TRA Trans.* at 30.

BellSouth makes White Pages listings available for the end users of both resellers and facilities-based CLECs at no extra charge. *See Milner Aff.* Exh. WKM-14 ¶ 3. BellSouth fully integrates CLEC subscriber listings with those of its own retail customers. *Id.* ¶ 12. All entries appear in the same font and character size, such that the listings of BellSouth and CLEC customers look identical. *Id.* Finally, BellSouth uses the same procedures to process all the

listings that it receives, and it provides CLEC customers with the same accuracy and reliability as BellSouth customers. *Id.* ¶ 16.

I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers

When it served as Central Office (“CO”) code administrator in its region, BellSouth satisfied the requirements of Checklist Item 9 by following number administration guidelines published by the Industry Numbering Committee. *See generally Milner Aff.* ¶¶ 210-216; *see also Second Louisiana Order* ¶ 264 (finding that BellSouth fully complied with the requirements of Checklist Item 9 during the period when it served as CO code administrator). Pursuant to those industry-standard procedures, BellSouth assigned 2,141 NXX CO codes to CLECs in its nine-state region. *Milner Aff.* ¶ 212. BellSouth provided nondiscriminatory access to telephone numbers throughout its region by developing and applying identical standards and procedures for processing all number requests, without regard to the requesting carrier’s identity. *Id.* BellSouth did not reject any requests for NXX code assignments, other than in the course of implementing jeopardy plans for number conservation that had been developed by consensus during Industry Jeopardy Meetings. *Id.*

In July and August 1999, Lockheed Martin assumed CO code administration and assignment responsibilities in BellSouth’s operating region, and BellSouth has had no responsibility for number administration since that time. *Id.* ¶¶ 210-211. Although it is no longer a CO code administrator and no longer performs any functions with regard to number administration or assignment, BellSouth continues to adhere to all relevant industry guidelines and Commission rules, including the provisions for submitting NXX code requests, in entering code information into the appropriate national databases, activating NXX codes assigned to service providers in BellSouth’s territory, filing semi-annual Number Resource Utilization Forecast Reports, and making available BellSouth NXX codes that are no longer in use. *Id.*

¶ 213. BellSouth has additionally established a single point of contact (or “SPOC”) for NXX activation and for trouble reporting, ensuring the smooth provisioning and testing of CLEC NXX codes. *Id.* ¶ 215.

BellSouth thus complies with Checklist Item 9. *See GA/LA Order* ¶ 278; *Five State Order* ¶ 270. *See also FPSC Staff Checklist Rec.* at 176, 179-81; *TRA Trans.* at 31-32. Indeed, BellSouth’s compliance with this checklist item is so clear that no party contested it in the Florida or Tennessee state proceedings. *See Ruscilli/Cox Joint Aff.* ¶ 3 n.3.

J. Checklist Item 10: Nondiscriminatory Access to Signaling and Call-Related Databases

In the *GA/LA Order* and the *Five State Order*, the Commission held that BellSouth had demonstrated that it was providing nondiscriminatory access to signaling and call-related databases. *See GA/LA Order* ¶ 278; *Five State Order* ¶ 257; *accord Second Louisiana Order* ¶ 267. Because BellSouth uses the same systems and procedures for providing nondiscriminatory access to signaling and call-related databases in Florida and Tennessee as it did in its other states at the time of those successful applications, BellSouth also satisfies this checklist item in Florida and Tennessee. *See Milner Aff.* ¶¶ 217-258. *See also FPSC Staff Checklist Rec.* at 182, 186-87; *TRA Trans.* at 32-33.

CLECs in Florida and Tennessee have nondiscriminatory access to BellSouth’s SS7 network. *Milner Aff.* ¶¶ 221-226. Consistent with the Commission’s rules, BellSouth also provides CLECs access to all call-related databases. These databases include BellSouth’s Line Information Database (“LIDB”), Toll Free Number Database, Calling Name Delivery (“CNAM”) Database, Number Portability Database, and AIN Databases. *Id.* ¶¶ 233-258. In addition, BellSouth provides access to a Service Control Point (“SCP”), which is a network facility in which call-related databases reside. *Id.* ¶ 234. Again, the Commission has previously

found that these same means and methods of access comply with all legal requirements. *See GA/LA Order* ¶ 278.

K. Checklist Item 11: Number Portability

Local number portability enables customers of facilities-based CLECs to retain their existing telephone numbers after they no longer subscribe to BellSouth's local service. The 1996 Act requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." 47 U.S.C. § 251(b)(2). Section 251(e)(2) requires that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." *Id.* § 251(e)(2).

BellSouth has worked diligently to implement LNP. BellSouth has implemented LNP throughout Florida and Tennessee, and indeed throughout its region. *See Milner Aff.* ¶ 262. BellSouth has complied with all applicable requirements concerning LNP. *See id.* ¶¶ 259-274.

Because BellSouth's implementation of LNP in Florida and Tennessee is substantively identical to that in BellSouth's other states, *see id.* ¶ 262, the Commission should find that BellSouth has satisfied Checklist Item 11 here for the same reasons expressed in the Commission's prior orders. *See GA/LA Order* ¶ 259 ("Based on the evidence in the record, we conclude, as did the Georgia and Louisiana Commissions, that BellSouth complies with the requirements of checklist item 11.") (footnote omitted); *Five State Order* ¶ 261. *See also FPSC Staff Checklist Rec.* at 188, 202-09; *TRA Trans.* at 34.

BellSouth ensures that CLECs' customers won from BellSouth are able to retain their telephone numbers without impairment of quality, reliability, or convenience. *See Milner Aff.* ¶¶ 259-274; *GA/LA Order* ¶¶ 259-267. BellSouth has met all the requirements set forth by this

Commission in its First Report and Order and First Memorandum Opinion and Order on Reconsideration in the *Telephone Number Portability* docket.⁶⁶ BellSouth has provided number portability through the use of the Location Routing Number methodology, which this Commission found satisfies its performance criteria. *GA/LA Order* ¶ 259 & n.1005.

As of July 31, 2002, BellSouth had ported 622,544 access lines in Florida using LNP and 294,432 access lines in Tennessee. *Milner Aff.* ¶ 261. Region-wide, BellSouth ported more than 2,160,000 access lines as of that date. *Id.*

For most LNP orders, BellSouth mechanically issues an order that will assign a trigger to a number to be ported, once the LSR has been accepted as complete. *Id.* ¶ 264. For certain complex orders, BellSouth's process calls for formation of a Project Team to handle the conversion; the Project Team ensures that such orders are handled properly and that the conversions are accurately completed. *Id.* ¶¶ 264-265. BellSouth has fully implemented 10-digit Global Title Translation in its entire SS7 network in both Florida and Tennessee, thus permitting the identification of calling parties whose numbers have been ported. *Id.* ¶¶ 272-273; *GA/LA Order* ¶ 267 (acknowledging BellSouth's region-wide implementation). BellSouth also has detailed, transparent processes in place for provisioning partial ports of its customers' service to CLECs. *Milner Aff.* ¶ 264; *Ainsworth Aff.* ¶¶ 178-179.

BellSouth's performance for LNP-related submetrics demonstrates that BellSouth's implementation of number portability gives competitors a meaningful opportunity to compete in Florida and Tennessee. From May through July 2002, BellSouth met or exceeded the performance standard for the vast majority of submetrics relating to LNP in both Florida and

⁶⁶ First Report and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*, 11 FCC Rcd 8352 (1996); First Memorandum Opinion and Order on Reconsideration, *Telephone Number Portability*, 12 FCC Rcd 7236 (1997).

Tennessee. For instance, in Florida, BellSouth met 25 of the 31 order completion submetrics; 32 of the 34 missed installation submetrics; and 34 of the 36 provisioning troubles within 30 days submetrics. *See Varner Aff.* Exh. PM-2 ¶¶ 172, 174-175. Similarly, in Tennessee, for submetrics with activity, BellSouth met 10 of the 11 order completion submetrics; 7 of the 9 missed installation submetrics; and all 9 provisioning troubles within 30 days submetrics. *See id.* Exh. PM-3 ¶¶ 172, 174-175. This consistently solid performance demonstrates that BellSouth continues to provide nondiscriminatory LNP, and thus meets this checklist requirement.

L. Checklist Item 12: Local Dialing Parity

In the *GA/LA* and the *Five State Orders*, the Commission held that BellSouth had demonstrated that it was providing “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).” *GA/LA Order* ¶¶ 268-270 (internal quotation marks omitted); *accord Five State Order* ¶¶ 267-269. Because BellSouth uses the same systems and procedures for providing local dialing parity in Florida and Tennessee as it does in these other states, BellSouth also satisfies this checklist item in Florida and Tennessee. *Milner Aff.* ¶¶ 275-277. *See also FPSC Staff Checklist Rec.* at 210, 213-15; *TRA Trans.* at 35-36.

This Commission has held “that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251.”⁶⁷ BellSouth does not impose any requirement or technical constraint that requires CLEC customers to dial any greater number of digits than BellSouth customers to complete the same call, or

⁶⁷ Second Report and Order and Memorandum Opinion and Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19430, ¶ 71 (1996).

causes CLEC customers to experience inferior quality regarding post-dial delay, call completion rate, or transmission quality as compared to BellSouth customers. *See Milner Aff.* ¶ 277.

M. Checklist Item 13: Reciprocal Compensation

Checklist Item 13 requires that a BOC implement “[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).” 47 U.S.C. § 271(c)(2)(B)(xiii). To comply with this item, BellSouth must show that it “(1) has in place reciprocal compensation arrangements in accordance with section 252(d)(2), and (2) is making all required payments in a timely fashion.” *Texas Order* ¶ 379 (footnote omitted). In the *Second Louisiana Order*, the Commission found BellSouth in compliance with these obligations. *Second Louisiana Order* ¶¶ 299-303. The Commission again found that BellSouth complies with these duties in both the Georgia/Louisiana proceeding and the Five State proceeding. *GA/LA Order* ¶ 271; *Five State Order* ¶ 270. Because BellSouth currently provides reciprocal compensation throughout its region on the same terms and conditions as it did in Georgia, Louisiana, and these other states at the time of those applications, BellSouth also satisfies this checklist item in Florida and Tennessee. *Ruscilli/Cox Joint Aff.* ¶¶ 47-53; *Milner Aff.* ¶¶ 278-279. *See also FPSC Staff Checklist Rec.* at 216, 218-20; *TRA Trans.* at 38.

In accordance with sections 271 and 252(d)(2), BellSouth has established just and reasonable rates for reciprocal compensation, thereby ensuring that CLECs and BellSouth receive mutual and reciprocal recovery of costs associated with the transport and termination of local calls. *See Ruscilli/Cox Joint Aff.* ¶¶ 47-52 (in general), 107 (Florida), 129-131 (Tennessee); *Milner Aff.* ¶¶ 278-279; *cf. KS/OK Order* ¶¶ 248-249 (BOCs must implement arrangements with CLECs by which the parties compensate each other for termination of traffic exchanged between their networks). State commission-approved rates for reciprocal compensation are set forth in

the Florida and Tennessee SGATs. *Ruscilli/Cox Joint Aff.* Exhs. JAR/CKC-1 (Florida), JAR/CKC-2 (Tennessee). BellSouth makes reciprocal compensation payments to CLECs in a timely fashion in Florida and Tennessee. *Milner Aff.* ¶ 279.

BellSouth's actions and performance at this time are consistent with the showing made to this Commission in prior successful applications. *Id.*; *Ruscilli/Cox Joint Aff.* ¶ 52. Thus, BellSouth meets this checklist obligation.

N. Checklist Item 14: Resale

Section 271(c)(2)(B)(xiv) requires a BOC to make "[t]elecommunications services . . . available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3)." 47 U.S.C. § 271(c)(2)(B)(xiv). In the *GA/LA Order* and the *Five State Order*, this Commission concluded that BellSouth has a specific legal obligation in its interconnection agreements and tariffs to make its retail telecommunications services available for resale to competing carriers at wholesale rates. *GA/LA Order* ¶ 273; *Five State Order* ¶ 270. The same is true in Florida and Tennessee. *See Ruscilli/Cox Joint Aff.* ¶¶ 54-66 (in general), 108-110 (Florida), 132-135 (Tennessee). *See also FPSC Staff Checklist Rec.* at 221, 238-42; *TRA Trans.* at 40-41.

As of July 31, 2002, multiple competing carriers in Florida and Tennessee are reselling tens of thousands of BellSouth lines. In Florida, CLECs are reselling more than 106,000 lines; in Tennessee, CLECs are reselling more than 33,000 lines. *See Milner Aff.* ¶ 281. BellSouth offers its services for resale in Florida and Tennessee at state commission-approved discounts that conform to all legal requirements. *See Ruscilli/Cox Joint Aff.* ¶¶ 54-66, 108-110, 132-135.

As reflected in BellSouth's performance data, BellSouth is providing nondiscriminatory service to its resale customers. Overall, in Florida, BellSouth met 89% of resale submetrics for

two of the three months between May and July 2002; BellSouth met 88% for two of those three months in Tennessee. *See Varner Aff.* Exhs. PM-2 ¶ 181, PM-3 ¶ 181.

BellSouth has demonstrated strong performance on resale FOC timeliness and Reject Interval submetrics in both states. In Florida, BellSouth met the reject benchmarks for 95.3% of LSRs and the FOC benchmarks for 96% of orders. *See id.* Exh. PM-2 ¶¶ 182, 187. In Tennessee, BellSouth met the reject benchmarks for 96% of LSRs and the FOC benchmarks for 98% of orders. *See id.* Exh. PM-3 ¶¶ 182, 187.

BellSouth also has provisioned resale lines in a timely manner in Florida and Tennessee. BellSouth met the benchmark for 43 of the 46 order completion submetrics with activity in Florida between May and July 2002; in Tennessee, BellSouth met the benchmark for all 33 submetrics with activity during that time period. *See id.* Exhs. PM-2 ¶ 192, PM-3 ¶ 192. Similarly, BellSouth met 39 of the 48 missed installation appointment submetrics with activity in Florida from May through July (and, in several other instances, made more than 99% of appointments but still technically missed parity); BellSouth met 36 of the 40 of these measures in Tennessee (again, with BellSouth still meeting installation appointments more than 99% of the time as to 3 of the remaining measures). *See id.* Exhs. PM-2 ¶¶ 195-196, PM-3 ¶ 195.

CLECs have also generally experienced a lower average of percent trouble reports within 30 days after installation of a resale line compared to BellSouth retail in each state from May through July 2002, and the few parity misses were generally due to low volume. *See id.* Exhs. PM-2 ¶ 197 (Florida), PM-3 ¶ 196 (Tennessee).⁶⁸

⁶⁸ Additionally, as with UNEs, BellSouth continues to post solid results for service order accuracy. For the three-month period May through July 2002, 17 of the 33 submetrics exceeded the 95% benchmark, with 9 of the submetrics that did not meet the 95% benchmark above 90%. *See Varner Aff.* ¶ 143.

BellSouth also provides maintenance and repair services for resale lines that afford CLECs a meaningful opportunity to compete. Both mean time to repair and repeat trouble rates have generally been in parity in Florida and Tennessee, and BellSouth has generally missed fewer repair appointments for CLECs than it has for retail customers. *See id.* Exhs. PM-2 ¶¶ 198-203 (Florida), PM-3 ¶¶ 197-202 (Tennessee).⁶⁹

As this Commission concluded in the *GA/LA Order*, BellSouth's policies with respect to the resale of DSL services are entirely consistent with BellSouth's current obligations under Checklist Item 14. *See GA/LA Order* ¶¶ 274-277. Just as in Georgia and Louisiana, BellSouth does not offer a retail DSL telecommunications service in Florida or Tennessee, so it is not required to offer such a service at a resale discount pursuant to section 251(c)(4). *See Ruscilli/Cox Joint Aff.* ¶¶ 62-63. This Commission has already acknowledged that the section 271 process is not the appropriate proceeding in which to address the "far-reaching implications for a wide range of issues" relating to the regulatory treatment of high-speed Internet access services, *GA/LA Order* ¶ 277, and there is already underway a proceeding in which the Commission intends to answer many of these questions, *see id.* ¶ 277 & n.1091.

V. BELLSOUTH'S ENTRY INTO THE INTERLATA SERVICES MARKET IN FLORIDA AND TENNESSEE WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Section 271 requires this Commission to determine whether interLATA entry "is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). BellSouth's provision of interLATA services originating in Florida and Tennessee satisfies this requirement. *See TRA Trans.* at 43-44. As this Commission has previously recognized,

⁶⁹ The specific resale measures discussed in the preceding two paragraphs are the same ones that this Commission specifically identified in concluding that BellSouth had complied with Checklist Item 14 in Georgia and Louisiana. *See GA/LA Order* ¶ 273 n.1077.

“compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission’s years of experience with the consumer benefits that flow from competition in telecommunications markets.” *KS/OK Order* ¶ 266. As the Commission recently reiterated, “BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.” *GA/LA Order* ¶ 281.⁷⁰

As has occurred in every other state where section 271 relief has been granted, BellSouth’s long-distance entry in Florida and Tennessee will stimulate both long-distance and local competition. Indeed, the consistent evidence of consumer savings where section 271 relief has been granted indicates that consumers in both states will likely save hundreds of millions of dollars. In a recent empirical study of the consumer-welfare benefits from BOC entry into long-distance telecommunications markets in New York and Texas, the authors found statistically significant evidence that BOC entry enabled the average consumer to reap a 9% savings on her monthly interLATA bill in New York and a 23% savings in Texas. In addition, they found statistically significant evidence that CLECs have a substantially higher cumulative share of the local exchange market in states where BOC entry has occurred.⁷¹

⁷⁰ See also *Texas Order* ¶ 419; *New York Order* ¶ 428 (“BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist. As a general matter, [this Commission] believe[s] that additional competition in telecommunications markets will enhance the public interest.”); *Michigan Order* ¶ 381 (“BOC entry into the long distance market will further Congress’ objectives of promoting competition and deregulation of telecommunication markets.”).

⁷¹ Jerry A. Hausman, Gregory K. Leonard & J. Gregory Sidak, *The Consumer-Welfare Benefits from Bell Company Entry into Long-Distance Telecommunications: Empirical Evidence from New York and Texas* at 3 (Jan. 9, 2002), at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=289851 (“*Consumer-Welfare Benefits*”).

Moreover, the state commissions in Florida and Tennessee have adopted a meaningful performance assurance plan to ensure that BellSouth continues to meet the requirements of section 271.

A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market

If this Commission's experience with the section 271 process over the last several years teaches anything, it is that section 271 approval vastly accelerates both long-distance and local competition. Chairman Powell has recognized "a correlation between the process for approving applications and growing robustness in the markets."⁷² There is every reason to believe that this correlation will continue in the states covered by this application.⁷³

BellSouth's entry into long-distance markets in Florida and Tennessee, like that of the other BOCs, is particularly pro-competitive because it will give consumers an attractive alternative single source (and bill) for local and long-distance services, placing significant pressure on the competition to provide lower prices, enhanced services, and greater quality. Survey after survey has shown customers' confusion and frustration with telephone bills.⁷⁴

⁷² See Rodney L. Pringle, *Powell Says Innovation Will Drive Telecom Upswing*, Communications Today, June 6, 2001 (internal quotation marks omitted). Consumers in New York alone have saved up to \$700 million a year as a result of greater competition. See Telecommunications Research & Action Center, *15 Months After 271 Relief: A Study of Telephone Competition in New York* 8-9 (Apr. 25, 2001) ("An average consumer that switched to Verizon for long-distance service will save between \$3.67 and \$13.94 a month . . . [P]hone competition has brought up to \$700 million of savings to New York consumers.").

⁷³ See *Consumer-Welfare Benefits* at 13 ("We predict that, when the BOCs receive section 271 approvals in other states, a similar significant decrease in long-distance prices will occur that leads to consumer benefits.").

⁷⁴ See *SBC Communications to Launch Long Distance Service in Texas*, Bus. Wire, July 7, 2000 ("Seventy-eight percent of those surveyed incorrectly believe the average amount paid per minute for a long-distance call is between 5 and 14 cents. According to a recent survey by Gartner Group, the average consumer is paying 22 cents a minute for long distance.").

With simpler long-distance rates and the convenience of one all-inclusive telephone bill, the 271-approved BOCs have attracted an unexpectedly high number of customers. After only six months in Texas, SBC had 1.7 million long-distance lines; after only nine months, that number had grown to 2.1 million lines.⁷⁵ Twelve months after entry in Texas and four months after entry in Oklahoma and Kansas, SBC had a total of 2.8 million long-distance lines in service.⁷⁶

BOC entry into long-distance markets has invigorated competition in *local* markets as well. This Commission has recognized that “[s]tates with long-distance approval show [the] greatest competitive activity” in local telecommunications.⁷⁷ Indeed, former Chairman Kennard aptly noted in testimony to Congress that “[w]e need only review the state of competition in New York and Texas to know the Act is working.”⁷⁸ And other experts agree: “BOC entry [into the New York and Texas long-distance markets] caused a significant increase in the CLECs’ cumulative market share. Most of the change in CLEC share is attributable to AT&T Local and MCI Local, which now must compete to keep their residential local customers by offering bundles of local and long-distance services, because the BOC can now offer a similar package to residential consumers.”⁷⁹

⁷⁵ See Michael J. Balhoff, *et al.*, Legg Mason – Equity Research, *Section 271 Relief: Bells Race IXCs/Each Other for New Markets/Revenues* Table 4 (June 24, 2001).

⁷⁶ See SBC, *Investor Briefing 7* (July 25, 2001), at http://www.sbc.com/Investor/Financial/Earning_Info/docs/2Q_IB_FINAL_Color.pdf.

⁷⁷ See FCC News Release, *Federal Communications Commission Releases Latest Data on Local Telephone Competition* (May 21, 2001).

⁷⁸ William E. Kennard, Chairman, FCC, *Statement Before the Committee on the Judiciary, United States House of Representatives, on H.R. 1686 – the “Internet Freedom Act” and H.R. 1685 – the “Internet Growth and Development Act”* (July 18, 2000), at <http://www.house.gov/judiciary/kenn0718.htm>.

⁷⁹ *Consumer-Welfare Benefits* at 12; see also Bruce Hight, *SW Bell Will Start Selling Long-Distance on Monday; AT&T, WorldCom Already Have Begun Counterattacks*, Austin

In sum, long-distance entry is a catalyst for competition in virtually all communications markets. It will bring vast benefits to consumers in Florida and Tennessee, as it has already begun to do for consumers in Georgia and Louisiana.

B. Performance Remedy Plans

This Commission concluded that the Service Performance Measurements and Enforcements Mechanisms (the SEEM plans) currently in place in Georgia and Louisiana “provide assurance that these local markets will remain open after BellSouth receives section 271 authorization.” *GA/LA Order* ¶ 291. The Florida SEEM plan, which the TRA subsequently approved for use in Tennessee after BellSouth and CLECs jointly agreed on that approach, similarly satisfies this Commission’s established criteria for an effective performance plan. *See Varner Aff.* ¶¶ 177-189; *see also id.* ¶¶ 230-231, 239 (discussing Tennessee approval of Florida plan for permanent use beginning no later than December 1, 2002).

The FPSC established its permanent performance measure and enforcement plan after holding both workshops and live hearings, both with full CLEC participation. *See id.* ¶¶ 156-157. These hearings resulted in the FPSC’s establishment of a permanent Performance Assurance Plan (“PAP”), which is the combination of an SQM and a SEEM plan.⁸⁰ BellSouth has been paying penalties under this plan in Florida starting with May 2002 results. *See id.*

American-Statesman, July 7, 2000, at A1 (“Bell Atlantic’s entry into long-distance – and the entry of AT&T and MCI among others, into local – has lowered costs and lowered rates for consumers, generally across the board”) (quoting Sam Simon, Chairman, Telecommunications Research & Action Center).

⁸⁰ *See* Order No. PSC-01-1819-FOF-TP, *Investigation into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Companies*, Docket No. 000121-TP (FPSC Sept. 10, 2001) (App. E – FL, Tab 22); *see also* Order No. PSC-02-0187-FOF-TP, *Investigation into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Companies*, Docket No. 000121-TP (FPSC Feb. 12, 2002) (finding that plan submitted by BellSouth complied with FPSC order) (App. E – FL, Tab 36).

¶ 157. The Florida SQM plan, which provides the basis for both future performance reporting and penalty payments, is closely analogous to the Georgia plan that this Commission has already reviewed, although the Florida plan does add a few measures, delete a few others, and change some business rules, largely by making benchmarks even more stringent. *See id.* ¶¶ 158-169 (describing differences in detail).

The SEEM plan adopted by the FPSC (and subsequently the TRA) is likewise comparable to the Georgia plan. *See id.* ¶ 171. Both plans use the same statistical methodology, provide for remedy payments both to individual CLECs and to the relevant state regulatory bodies, set a meaningful and substantial cap on BellSouth's financial liability, and provide for annual audits and performance reviews. *See id.* ¶¶ 171-172.⁸¹ The Florida plan, unlike the Georgia plan, calculates penalties based on failed measurements (instead of transactions); accordingly, it includes much higher levels of disaggregation and a different fee schedule. *See id.* ¶ 173. In this regard, the Florida plan is similar to the plans that this Commission has found sufficient in the Verizon states. *See id.* ¶¶ 174-175; *New York Order* ¶¶ 431-443.

BellSouth has placed a total of approximately \$392 million at stake in Florida, which represents approximately 39% of BellSouth's net revenues for the year 2000 in that state. *Varner Aff.* ¶ 178. Similarly, 39% of BellSouth's net revenues are at stake in Tennessee. *See id.* ¶ 239. The Florida and Tennessee plans are also based on a comprehensive number of key performance measures, are reasonably structured to address poor performance, are self-effectuating, and are subject to review by state commissions and independent audits. *See id.*

⁸¹ In approving the Georgia and Louisiana SEEM plans, this Commission recognized that they differed from the New York and Texas plans. *See GA/LA Order* ¶ 292. Indeed, the Tier 3 penalties – that is, the threat that BellSouth could be required to stop marketing interLATA service – in the Georgia plan, which are not included in the Florida plan, had never been part of performance remedy plans in any application before Georgia/Louisiana, and the Commission has never mandated any particular penalty structure. *See id.* ¶ 294.

¶¶ 184-189; *GA/LA Order* ¶ 295 (identifying these as key characteristics of an effective plan); *New Jersey Order* ¶ 176 (finding public interest requirement satisfied where performance plan fell within a “zone of reasonableness”).

In sum, the SEEM plans in Florida and Tennessee provide BellSouth with “adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market.” *GA/LA Order* ¶ 291. Like the other BellSouth SEEM plans that this Commission recently reviewed and approved, the plans in Florida and Tennessee constitute “probative evidence that [BellSouth] will continue to meet its section 271 obligations after a grant of such authority.” *Id.*

VI. BELLSOUTH’S COMPLIANCE WITH SECTION 272

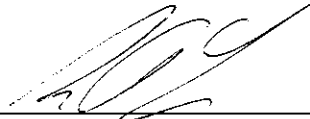
BellSouth complies with the requirements of sections 271(d)(3)(B) and 272, which require BST and its long-distance affiliate to operate independently of each other and conduct business on an arm’s-length, nondiscriminatory basis. *See generally Bhalla Aff.* (App. A, Tab B); *Ruscilli/Cox Joint Aff.* ¶¶ 150-247. *See TRA Trans.* at 45-46. As this Commission held in both the Georgia/Louisiana proceeding and the Five State proceeding, “BellSouth has demonstrated that it will comply with the requirements of section 272.” *GA/LA Order* ¶ 279; *Five State Order* ¶ 271.

BellSouth established BSLD as its section 272 affiliate to provide in-region, interLATA services. As in other states where BellSouth has gained section 271 authority, BSLD will also be BellSouth’s section 272 affiliate for in-region, interLATA services in Florida and Tennessee. *See Bhalla Aff.* ¶ 6. Because BellSouth maintains the identical structural separation and nondiscrimination safeguards in Florida and Tennessee as it does in Georgia and Louisiana and the other five BellSouth states, *see Ruscilli/Cox Joint Aff.* ¶ 149, the Commission should find that BellSouth also satisfies the requirements of section 272 in Florida and Tennessee.

CONCLUSION

This Application should be granted.

Respectfully submitted,



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